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MR

OLC 78-3264  
20 October 1978

## MEMORANDUM FOR THE RECORD

SUBJECT: Foreign Service Retirement Act

1. (IUO) Called Robert Hull, Retirement Specialist, Department of State, and inquired as to how the State Department is processing retirements under the Foreign Service Retirement Act on the basis of a "high one" salary during the few days that the provision was law.

2. (IUO) Hull explained that the "high one" provision was in State's authorization bill and became effective when signed into law by the President in early October, however, the President was strongly opposed to the provision and several days later another law was passed which struck this provision. Also, State's appropriation law contains a provision which precludes the expenditure of any funds for any retirement computed on the basis of a "high one."

3. (IUO) Hull said that during the period that the "high one" provision was law, about 35 Foreign Service officers signed up for retirement. Such officers will have to go to court for enforcement of this provision since the Department's lawyers have determined that the Department must process these retirements on the basis of a "high three" salary. Hull doubts that the officers would prevail since no monies can be paid out for a "high one" retirement even if a court found the provision to be valid at the time the officers exercised their right to retire.

Chief, Coordination and Review Staff

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